

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

In re:)	
)	Chapter 11
ZACHRY HOLDINGS, INC., <i>et al.</i> ¹)	Case No. 24-90377 (MI)
)	
Debtors.)	(Jointly Administered)
)	
)	
FLNG LIQUEFACTION, LLC;)	
FLNG LIQUEFACTION 2, LLC; and)	
FLNG LIQUEFACTION 3, LLC,)	Adv. Pro. No. 24-03189 (MI)
)	
Plaintiffs,)	
)	
)	
v.)	
)	
ZACHRY INDUSTRIAL, INC.;)	
ZACHRY INDUSTRIES, INC.;)	
JVIC DEMERGER FABRICATION, INC.;)	
ZACHRY ENTERPRISE SOLUTIONS)	
DEMERGER, INC.; CB&I LLC n/k/a;)	
MCDERMOTT INTERNATIONAL)	
LTD.; CHIYODA INTERNATIONAL)	
CORPORATION; and PSRG, INC.,)	
)	
Defendants.)	
)	

¹ The last four digits of Zachry Holdings, Inc.'s tax identification number are 6814. A complete list of each of the Debtors in these chapter 11 cases and the last four digits of their federal tax identification numbers may be obtained on the website of the Debtors' claims and noticing agent at www.veritaglobal.net/ZHI. The location of the Debtors' service address in these chapter 11 cases is: P.O. Box 240130, San Antonio, Texas 78224.

ALLIANZ GLOBAL RISKS US)	
INSURANCE CO.; CERTAIN)	
UNDERWRITERS AT LLOYD’S OF)	Adv. Pro. No. 24-03190 (MI)
LONDON SUBSCRIBING TO)	
POLICY NO. B0180ME2219036;)	
GREAT LAKES INSURANCE SE;)	
GUIDEONE NATIONAL)	
INSURANCE COMPANY; and)	
TOKIO MARINE AMERICA)	
INSURANCE COMPANY, as)	
subrogees of FLNG Policy Procurement)	
LLC; FLNG Liquefaction, LLC; FLNG)	
Liquefaction 2, LLC; and FLNG)	
Liquefaction 3, LLC)	
)	
Plaintiffs,)	
)	
v.)	
)	
ZACHRY INDUSTRIAL, INC.;)	
ZACHRY INDUSTRIES, INC.;)	
JVIC DEMERGER FABRICATION,)	
INC.; ZACHRY ENTERPRISE)	
SOLUTIONS DEMERGER, INC.;)	
CB&I LLC n/k/a;)	
MCDERMOTT INTERNATIONAL)	
LTD.; CHIYODA INTERNATIONAL)	
CORPORATION; and PSRG, INC.,)	
)	
Defendants.)	

NOTICE OF APPEAL

NOTICE IS HEREBY GIVEN that Appellants FLNG Liquefaction, LLC; FLNG Liquefaction 2, LLC; FLNG Liquefaction 3, LLC, Allianz Global Risks US Insurance Co.; Certain Underwriters at Lloyd’s of London Subscribing to Policy No. B0180ME2219036; Great Lakes Insurance SE; Guideone National Insurance Company; and Tokio Marine America Insurance Company, as subrogees of FLNG Policy Procurement LLC; FLNG Liquefaction, LLC; FLNG Liquefaction 2, LLC; and FLNG Liquefaction 3, LLC (collectively the “Appellants”), by and

through their undersigned counsel; file this Notice of Appeal pursuant to 28 U.S.C. § 158(a)(1) and Rule 8003 of the Federal Rules of Bankruptcy Procedure.

Appellants appeal to the United States District Court for the Southern District of Texas the Order on (I) Motions to Dismiss the Subrogation Actions and (II) Related Claim Objection [Bankruptcy Case Docket No. 1469; Adv. Pro. No. 24-03189 Docket No. 65; and Adv. Pro. No. 24-03190 Docket No. 58] (the “Final Order”, attached hereto as **Exhibit A** and incorporated herein by reference). *See also* the transcript of the November 18, 2024 hearing attached hereto as **Exhibit B** and incorporated herein by reference, at pp. 58-65.

PART 1: IDENTIFY THE APPELLANT

1. Names of the Appellants:

FLNG Liquefaction, LLC; FLNG Liquefaction 2, LLC; and FLNG Liquefaction 3, LLC

Ken Green (Texas Bar No. 24050698)
Bryan Prentice (Texas Bar No. 24099787)
Bonds Ellis Eppich Schafer Jones LLP
402 Heights Blvd.
Houston, Texas 77007
(713) 335-4990 telephone
(713) 335-4991 facsimile
Email: ken.green@bondsellis.com

-and-

Brook Minx (Texas State Bar No. 00789905)
Kevin Hood (Texas State Bar No. 09941100)
Zabel Freeman
1135 Heights Blvd.
Houston, Texas 77008
(713) 802-9117 telephone
(713) 802-9114 facsimile
Email: bminx@zflawfirm.com

Allianz Global Risks US Insurance Co.; Certain Underwriters at Lloyd’s of London Subscribing to Policy No. B0180ME2219036; Great Lakes Insurance SE; Guideone National Insurance Company; and Tokio Marine America

Insurance Company, as subrogees of FLNG Policy Procurement LLC; FLNG Liquefaction, LLC; FLNG Liquefaction 2, LLC; and FLNG Liquefaction 3, LLC

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Bryan Prentice (Texas Bar No. 24099787)
Bonds Ellis Eppich Schafer Jones LLP
402 Heights Blvd.
Houston, Texas 77007
(713) 335-4990 telephone
(713) 335-4991 facsimile
Email: ken.green@bondsellis.com

-and-

EVAN J. MALINOWSKI, ESQ.
Texas Bar No. 24119454
PAUL B. HINES, ESQ.
Texas Bar No. 24104750
emalinowski@dt-law.com
phines@dt-law.com
Denenberg Tuffley, PLLC
28411 Northwestern Hwy., Ste. 600
Southfield, MI 48034
Phone: (248) 549-3900
Fax: (248) 593-5808

2. **Positions of the appellants in the adversary proceeding or bankruptcy case that is the subject of this appeal:**

Creditors

PART 2: IDENTIFY THE SUBJECT OF THIS APPEAL

1. **Describe the judgment, order, or decree appealed from:**

The Order on (I) Motions to Dismiss the Subrogation Actions and (II) Related Claim Objection [Bankruptcy Case Docket No. 1469; Adv. Pro. No. 24-03189 Docket No. 65; and Adv. Pro. No. 24-03190 Docket No. 58]

2. **State the date on which the judgment, order, or decree was entered:**

The Final Order was entered on November 20, 2024 in Adv. Pro. No. 24-03189 and on November 21, 2024 in the Bankruptcy Case and Adv. Pro. No. 24-03190.

PART 3: IDENTIFY THE OTHER PARTIES TO THIS APPEAL

1. Party:

Debtors and Debtors in Possession

WHITE & CASE LLP

Charles R. Koster (Texas Bar No. 24128278)
609 Main Street, Suite 2900
Houston, Texas 77002
Telephone: (713) 496-9700
Facsimile: (713) 496-9701
Email: charles.koster@whitecase.com

-and-

Bojan Guzina (admitted pro hac vice)
Andrew F. O'Neill (admitted pro hac vice)
Fan B. He (admitted pro hac vice)
Adam Swingle (admitted pro hac vice)
Barrett Lingle (admitted pro hac vice)
111 South Wacker Drive, Suite 5100
Chicago, Illinois 60606
Telephone: (312) 881-5400
Email: bojan.guzina@whitecase.com
aoneill@whitecase.com
fhe@whitecase.com
adam.swingle@whitecase.com
barrett.lingle@whitecase.com

Zachry Industrial, Inc.; Zachry Industries, Inc.; JVIC Demerger Fabrication, Inc.; and Zachry Enterprise Solutions Demerger, Inc.

HICKS THOMAS LLP

John B. Thomas (Attorney-in-Charge)
Texas Bar No. 19856150
S.D. Tex. ID No. 10675
jthomas@hicks-thomas.com
Eric Grant
Texas Bar No. 24076167
S.D. Tex. ID No. 1786107
grant@hicks-thomas.com
D. Ryan Cordell, Jr.
Texas Bar No. 24109754
S.D. Tex. ID No. 3455818
rcordell@hicks-thomas.com
700 Louisiana Street, Suite 2300
Houston, Texas 77002

Telephone: (713) 547-9100
Facsimile: (713) 547-9150

CB&I LLC

THE KIM LAW FIRM

John H. Kim
Federal ID No. 15626
State Bar No. 00784393
Denise H. Kim
Federal ID No. 56991
State Bar No. 24010933
4309 Yoakum Blvd., Suite 2000
Houston, Texas 77006
Telephone: (713) 522-1177
Facsimile: (888) 809-6793
jhk@thekimlawfirm.com
denise@thekimlawfirm.com

-and-

BAKER & MCKENZIE LLP

Jack W. Massey
Federal ID No. 658576
State Bar No. 24051004
Matthew C. Rawlinson
Federal ID No. 24546
State Bar No. 24013379
Stephanie M. Brown
Federal ID No. 3899385
State Bar No. 24126339
800 Capitol St., Suite 2100
Houston, Texas 77002
Telephone: (713) 427-5000
Facsimile: (713) 427-5099
jack.massey@bakermckenzie.com
matthew.rawlinson@bakermckenzie.com
stephanie.brown@bakermckenzie.com

CHIYODA INTERNATIONAL CORPORATION

HAYNES AND BOONE, LLP

Charles A. Beckham, Jr. (TX Bar No. 02016600)
Kelli Norfleet (TX Bar No. 24070678)
Imaan Patel (TX Bar No. 24139247)
1221 McKinney Street, Suite 4000

Houston, Texas 77010
Telephone: (713) 547-2000
Email: charles.beckham@haynesboone.com
kelli.norfleet@haynesboone.com
imaan.patel@haynesboone.com

-and-

Charles M. Jones II (TX Bar No. 24054941)
Martha Wyrick (TX Bar No. 24101606)
2801 N. Harwood Street, Suite 2300
Dallas, Texas 75201
Telephone: (214) 651-5000
Email: charlie.jones@haynesboone.com
martha.wyrick@haynesboone.com

-and-

Brian Singleterry (TX Bar No. 24098433)
301 Commerce Street, Suite 2600
Fort Worth, Texas 76102
Telephone: (817) 347-6600
Email: brian.singleterry@haynesboone.com

PSRG, INC.

BUSH & RAMIREZ PLLC
Paul Catalano
State Bar No. 03998400
Federal Bar No. 14894
pcatalano@bushramirez.com
Marshall G. Rosenberg
State Bar No. 12771450
Federal Bar No. 14933
mrosenberg@bushramirez.com
D. Alan Appling
State Bar No. 24092043
Federal Bar No. 2792731
aappling@bushramirez.com
5615 Kirby Drive, Suite 900
Houston, Texas 77005
713-626-1555- telephone
713-622-8077 - facsimile

2. Non-Parties that May Have an Interest in the Outcome of this Appeal:

All Other Unsecured Creditors of Debtors.

Dated: December 2, 2024
Houston, Texas

Respectfully submitted,

/s/ Ken Green

Ken Green (Texas Bar No. 24050698)
Bryan Prentice (Texas Bar No. 24099787)
Bonds Ellis Eppich Schafer Jones LLP
402 Heights Blvd.
Houston, Texas 77007
(713) 335-4990 telephone
(713) 335-4991 facsimile
Email: ken.green@bondsellis.com

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Kevin Hood (Texas State Bar No. 09941100)
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(713) 802-9114 facsimile
Email: bminx@zflawfirm.com

-and-



EVAN J. MALINOWSKI, ESQ.
Texas Bar No. 24119454
PAUL B. HINES, ESQ.
Texas Bar No. 24104750
emalinowski@dt-law.com
phines@dt-law.com
Denenberg Tuffley, PLLC
28411 Northwestern Hwy., Ste. 600
Southfield, MI 48034
Phone: (248) 549-3900
Fax: (248) 593-5808
Attorneys for Appellants

CERTIFICATE OF SERVICE

I hereby certify that on December 2, 2024, I caused a copy of the foregoing document to be served by electronic mail via the Court's ECF system to all parties authorized to receive electronic notice in this case.

/s/ Ken Green

Ken Green

Exhibit A

ENTERED

November 21, 2024

Nathan Ochsner, Clerk

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

In re:

ZACHRY HOLDINGS, INC., *et al.*¹

Debtors.

FLNG LIQUEFACTION, LLC;
FLNG LIQUEFACTION 2, LLC; and
FLNG LIQUEFACTION 3, LLC,

Plaintiffs,

V.

ZACHRY INDUSTRIAL, INC.;
ZACHRY INDUSTRIES, INC.;
JVIC DEMERGER FABRICATION, INC.;
ZACHRY ENTERPRISE SOLUTIONS
DEMERGER, INC.; CB&I LLC n/k/a;
MCDERMOTT INTERNATIONAL
LTD.; CHIYODA INTERNATIONAL
CORPORATION; and PSRG, INC.,

Defendants.

¹ The last four digits of Zachry Holdings, Inc.'s tax identification number are 6814. A complete list of each of the Debtors in these chapter 11 cases and the last four digits of their federal tax identification numbers may be obtained on the website of the Debtors' claims and noticing agent at www.veritaglobal.net/ZHI. The location of the Debtors' service address in these chapter 11 cases is: P.O. Box 240130, San Antonio, Texas 78224.

ALLIANZ GLOBAL RISKS US
INSURANCE CO.; CERTAIN
UNDERWRITERS AT LLOYD’S OF
LONDON SUBSCRIBING TO
POLICY NO. B0180ME2219036;
GREAT LAKES INSURANCE SE;
GUIDEONE NATIONAL
INSURANCE COMPANY; and
TOKIO MARINE AMERICA
INSURANCE COMPANY, as
subrogees of FLNG Policy Procurement
LLC; FLNG Liquefaction, LLC; FLNG
Liquefaction 2, LLC; and FLNG
Liquefaction 3, LLC

Plaintiffs,

v.

ZACHRY INDUSTRIAL, INC.;
ZACHRY INDUSTRIES, INC.;
JVIC DEMERGER FABRICATION,
INC.; ZACHRY ENTERPRISE
SOLUTIONS DEMERGER, INC.;
CB&I LLC n/k/a;
MCDERMOTT INTERNATIONAL
LTD.; CHIYODA INTERNATIONAL
CORPORATION; and PSRG, INC.,

Defendants.

Adv. Pro. No. 24-03190 (MI)

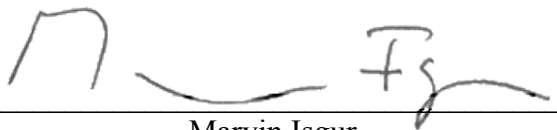
**ORDER ON (I) MOTIONS TO DISMISS
THE SUBROGATION ACTIONS AND (II) RELATED CLAIM OBJECTION**

For the reasons stated on the record at the hearing held before this Court on November 18, 2024, **IT IS HEREBY ORDERED THAT:**

1. All claims asserted in the adversary proceeding number 24-03189 and the adversary proceeding number 24-03190 are dismissed.

2. Proofs of Claim numbers 1562, 1564, and 1579 are disallowed.
3. This single order concerns the two adversary proceedings and the main case. The Court recommends that any appellate court consolidate these matters for appeal.
4. The terms and conditions of this Order are immediately effective and enforceable upon its entry.
5. This Court retains jurisdiction with respect to all matters arising from or related to the enforcement of this Order.

Signed: November 20, 2024



Marvin Isgur
United States Bankruptcy Judge

Exhibit B

1 UNITED STATES BANKRUPTCY COURT
2 SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

3) CASE NO: 24-90377-mi
4 ZACHRY HOLDINGS, INC.,) Houston, Texas
5 Debtor.) Monday, November 18, 2024
6) 8:59 a.m. to 11:15 a.m.
-----)
7 FLNG LIQUEFACTION, LLC,) CASE NO: 24-03189-mi
ET AL.,) ADVERSARY
8 Plaintiffs,)
9 Vs.)
10 ZACHRY INDUSTRIAL INC.,)
ET AL.,)
11 Defendants.)
-----)
12 ALLIANZ GLOBAL RISKS US) CASE NO: 24-03190-mi
INSURANCE CO. ET AL.,) ADVERSARY
13 Plaintiffs,)
14 Vs.)
15 ZACHRY INDUSTRIAL, INC.,)
ET AL.,)
16 Defendants.)
-----)
17 FLNG LIQUEFACTION LLC, ET AL.,) CASE NO: 24-03195-mi
Plaintiffs,) ADVERSARY
18 Vs.)
19 CB&I INC. ET AL.,)
20 Defendants.)
-----)

21

22 HEARING

23 BEFORE THE HONORABLE MARVIN ISGUR
24 UNITED STATES BANKRUPTCY JUDGE

25

1 APPEARANCES:

2 For the Debtor: CHARLES R. KOSTER
 White & Case LLP
3 609 Main Street
 Houston, TX 77002

4
 JOHN THOMAS
5 Hicks Thomas LLP
 700 Louisiana Street,
6 Houston, TX 77002

7 For FLNG and
 Pfs. in Adv. 3189: KENNETH GREEN
8 Bonds Ellis Eppich Schafer
 Jones LLP
 950 Echo Lane
9 Houston, TX 77024

10 For Pfs. in Adv. 3189: KEVIN HOOD
 Zabel Freeman
11 1135 Heights Blvd.
 Houston, TX 77008

12 For Allianz: EVAN MALINOWKSI
13 Denenberg Tuffle
 2245 Texas Drive
14 Sugar Land, TX 77479

15 For Chiyoda: CHARLES JONES
 MARTHA WYRICK
16 Haynes and Boone, LLP
 2801 N. Harwood Street
17 Dallas, TX 75201

18 For FLNG Plaintiffs: MICHAEL FISHEL
 CHRIS TAYLOR
19 King & Spalding LLP
 1100 Louisiana Street
20 Houston, TX 77002

21 For CB&I: JACK MASSEY
 MATTHEW RAWLINSON
22 Baker & McKenzie
 800 Capitol
23 Houston, TX 77002

24

25

1 Court Reporter: UNKNOWN

2 Courtroom Deputy: UNKNOWN

3 Transcribed by: Veritext Legal Solutions
4 330 Old Country Road, Suite 300
Mineola, NY 11501
5 Tel: 800-727-6396

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8 Proceedings recorded by electronic sound recording;
9 Transcript produced by transcription service.

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1 as a basis of what Zachry or any other joint venture
2 required per a contract to cover the construction period and
3 then any defective work that was corrected prior to. That's
4 not what brings us here. That's not the basis of this
5 lawsuit, and therefore plaintiffs argue that that waiver
6 does not apply.

7 THE COURT: Thank you, sir. All right. I am
8 granting the motion to dismiss the claims by the insurers.
9 They have no standing to be here. They are not subrogated
10 to any of the right to the debtor. I don't think that this
11 is an ambiguous contract. The measure by which they were
12 required to maintain insurance without subrogation rights
13 ran through the end of the defect correction period. The
14 argument that it also entailed what was covered in the
15 defect correction misses the point.

16 The point is they were required to provide the
17 insurance. It was required not to have subrogation
18 provisions, and it was required to be provided through the
19 end of the defect correction period. Any such insurance had
20 to have the waiver of subrogation. I don't think the
21 insurers, therefore, have standing to bring their lawsuits,
22 and I am dismissing the subrogation lawsuits.

23 As to the motor suit, I want to go back and reread
24 it frankly. I have difficult time imagining that if I read
25 it not to include allegations sufficient to over gross

1 negligence that I would not give an opportunity to amend,
2 frankly. But I want to go read it again before I decide
3 whether it sufficiently pleads gross negligence. Go ahead,
4 Mr. Thomas. You look like you need to talk to me pretty
5 badly, but...

6 MR. THOMAS: No, Your Honor. No, Your Honor.
7 Just before you finish I wanted to ask two things. One is
8 may I give you a copy of this deck that summarizes those
9 provisions that may be relevant to your review?

10 THE COURT: Yes, please do.

11 MR. THOMAS: I'll give opposing counsel copies as
12 well.

13 THE COURT: Thank you. Mr. Jones?

14 MR. JONES: Your Honor, Charlie Jones, Haynes and
15 Boone on behalf of Chiyoda International. I just want to
16 clarify that your dismissal of the insurance subrogation
17 (indiscernible), the 189 and the 190, applies to all
18 defendants?

19 THE COURT: Yes.

20 MR. JONES: Okay. Thank you.

21 THE COURT: Yes. Absolutely. And it's a full
22 dismissal. It's not a partial dismissal. I don't think
23 they have standing to bring this lawsuit.

24 MR. JONES: Would you like us to prepare an order
25 for Your Honor?

1 THE COURT: I'm going to just prepare a one-
2 sentence order. It's going to say for the reasons set forth
3 on the record, this case is dismissed.

4 MR. JONES: Thank you, Judge.

5 THE COURT: Thank you. All right. Let's go to
6 the other matters that we have on the calendar in the main
7 case. Mr. Koster?

8 MR. KOSTER: Your Honor, for the record, Charles
9 Koster for the debtors. Turning the claims objections that
10 were filed in the main case, Your Honor's ruling of a moment
11 ago I think should make this much simpler. And recognizing
12 that you'll be reviewing again the pleadings related to the
13 motor defect case, I believe without rehashing any of the
14 arguments made by counsel and recognizing that we're simply
15 here on a scheduling conference, we've made it to these
16 claims objections, that counsel had indicated at the
17 (indiscernible) that all information related to the gross
18 negligence allegations is set forth in the pleading and
19 admitted that the installation issue is inseparable from the
20 motor issues themselves.

21 And on that basis, at least my simple mind fails
22 to understand how it could possibly gross negligence to get
23 around to --

24 THE COURT: So I -- there is zero briefing before
25 me about dual independent causes that would've caused the

1 failure. I definitely am not going to go out on a limb of
2 guessing at what I think tort law ought to be without any
3 briefing on that so that you know, Mr. Koster. I understand
4 because I stated your argument for you, but he says I think,
5 look, even if the motor had been defective, if it had been
6 installed right, it wouldn't have caused these huge bolts to
7 fall down and destroy the motor casing. And that's
8 defective work.

9 That's not the defective motor. And so that's an
10 independent cause where even if you had one defect, at least
11 some of the damage from the other defect would've occurred.
12 So how do I grapple with that without -- my tort expertise
13 is limited, right?

14 MR. KOSTER: Understood entirely, Your Honor, and
15 I think that your ruling and your comments just now make
16 clear that this a far narrower dispute that was just an hour
17 ago and the issues that we'll be taking up in connection
18 with the claims objections and the discovery, if any, that
19 may be needed that go to causation can presumably be done
20 very quickly.

21 We had attempted in advance of this hearing to
22 come up with an agreed schedule with the plaintiffs related
23 to resolution of these issues through the claims objections.
24 The debtors have no interest or intent of depriving any of
25 the parties of all of the rights that they would have in

1 connection with the litigation of the issues on the merits
2 in the adversary proceedings. That said, as Your Honor is
3 well aware, we hope to resolve these issues entirely in
4 connection with confirmation. And we think that there is no
5 reason that the parties can't agree to a relatively fast
6 schedule for all necessary --

7 THE COURT: So let me ask this. I hear what
8 you're saying. I do think this landscape changes a bit
9 today. Can we come back at 11 this morning after you have a
10 chance to confer with opposing counsel and figure out what
11 you all jointly propose that we do or separately propose?
12 But I don't think I need to hear, you know, the back and
13 forth. I think you all need to talk at this point.

14 MR. KOSTER: That's a great suggestion from the
15 debtor's perspective. 11 is absolutely fine.

16 THE COURT: Can you still meet at 11?

17 MAN: Yes, Your Honor.

18 THE COURT: Okay. We'll take a break and let you
19 all come back at 11 on that issue. Hold on. We still have
20 the 9:30 hearing on your emergency motion for an order
21 authorizing expansion of the LLC. I figured we'd have
22 everybody here and didn't need much notice. So the real
23 issue is whether anybody's going to object to this. Do we
24 have any objections at all to allowing the expansion of the
25 letter of credit? Anyone on the phone please press 5 star.

1 I think this is ordinary course, frankly, and I
2 appreciate your coming. I don't mean it that way. But it
3 means I don't think I need any real time to think through
4 this. It makes so much sense. It's a fairly nominal amount
5 given the context of the case and I should have everybody
6 here today because this is an essential hearing. So I want
7 to know if anyone objects. If not, I'm going to grant 1426.
8 Okay. I'm granting 1426. We'll get that done. We're in
9 recess in this case until 11. We've got a -- Mr. Green?

10 MR. GREEN: If I might say one thing, Your Honor?

11 THE COURT: Yes, sir.

12 MR. GREEN: I would stick around until 11, but I
13 believe your ruling on the adversary would also dispose of
14 the FLNG subrogation claimants' proofs of claim --

15 THE COURT: I agree.

16 MR. GREEN: -- for the same reason.

17 THE COURT: You don't need to be here at 11 if you
18 don't want to.

19 MR. GREEN: But there is one thing I want to say
20 though. It may be unavoidable that if the subrogate
21 insurers want to appeal, there may have to be two appeals.

22 THE COURT: Right.

23 MR. GREEN: It would be more efficient if there
24 was a way to only have one appeal, but that was the only
25 comment I wanted to make.

1 THE COURT: I'm not going to rule on all the other
2 -- look, I think the policy and its interpretation is really
3 complex, and it -- the subrogation is really obvious. So --

4 MR. GREEN: What I meant was you have a ruling in
5 the adversary proceeding and there'll be a separate ruling
6 in the main case on the claim objection.

7 THE COURT: Why don't I do one order then that
8 we'll file in both that says this disposes of the claim
9 objection and the claim is allowed at zero? I'm sorry. I
10 misunderstood what you were saying. Yes. We'll make it a
11 single -- yeah. What I don't want to end up ruling on are
12 the complexities of the interpretation of the other
13 provisions of the contract as to whether you might have a
14 good liability claim, or whether it's waived, or all of that
15 stuff.

16 So we'll deal with that. And then instead of a
17 one-sentence order, it'll be a two-sentence order. Would
18 you all rather just agree on that two-sentence order to be
19 sure you get a unitary appeal? Because I do want to do that
20 for you.

21 MR. GREEN: Okay. Thank you.

22 THE COURT: And just would you all upload an order
23 that is consistent that would allow a single appeal for
24 both? Does that work?

25 MR. GREEN: Yes, Your Honor.

1 THE COURT: Okay. Thank you all. We're in recess
2 then until 11 in this case. I'm going to stay out here. I
3 have a 10:30 hearing on another case. Thank you.

4 (Recess)

5 THE COURT: Now let's go back to the FLNG matters.
6 Did you all reach an agreement on what to do?

7 MR. KOSTER: Good morning again, Your Honor. For
8 the record, Charles Koster for the debtors. We appreciate
9 the time that Your Honor afforded us to work on a schedule.
10 At this time we would propose the following. We would like
11 to continue the scheduling conference for a time ideally
12 next Monday if that works for Your Honor.

13 THE COURT: Monday the 18th?

14 MR. KOSTER: Monday the 25th.

15 THE COURT: I'm sorry. The 25th. All right.
16 What time?

17 MR. KOSTER: Whenever Your Honor has availability
18 for us is just fine from the debtor's perspective.

19 THE COURT: I'm going to be out next week, so I
20 would prefer this to be a phone-and-video-only hearing.

21 MR. KOSTER: Absolutely.

22 THE COURT: I could make it in if I need to be,
23 but if it's just a scheduling conference I would prefer not
24 to, to be frank about.

25 MAN 1: Remote is preferable for the debtors as